

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: May 27, 2011
POSITION: Oppose
SPONSOR: Californians Against Waste

BILL NUMBER: AB 960
AUTHOR: B. Lowenthal
RELATED BILLS: AB 549, AB 794,
AB 583

BILL SUMMARY: Recycling: Electronic Waste

This bill would revise CalRecycle payment eligibility conditions for recyclers exporting covered and non-covered electronic waste (e-waste). Specifically, the bill would require recyclers exporting e-waste ultimately destined for other states or countries to demonstrate to the Department of Toxic Substances Control (DTSC) the e-waste does not violate the receiving entity's laws and requirements. The bill also would require CalRecycle to determine the recycler has made such a demonstration to DTSC as a condition for payment.

Existing law establishes the Electronic Waste Recycling Act (Act) to facilitate the return, recycling, and safe environmentally-sound disposal of covered electronic devices (CEDs). Existing law defines CED as a video display device containing a screen greater than four inches, measured diagonally. Discarded CEDs are considered covered electronic waste (CEW). Existing law requires retailers selling CEDs to collect an electronic waste recycling fee of \$6 to \$10 from consumers for each CED—the larger the screen size, the greater the fee. Fees are deposited in the Electronic Waste Recovery and Recycling Account (EWRRA). The EWRRA is continuously appropriated to the Department of Resources Recycling and Recovery (CalRecycle) to pay CED manufacturers and CEW collectors and recyclers for collection and recycling costs for CEW generated in California.

FISCAL SUMMARY

DTSC estimates a 2011-12 cost of \$373,000 EWRRA and \$743,000 EWRRA in 2012-13 and annually thereafter, to review and track additional export notifications, research, and maintain the database of exporting countries' import/hazardous waste restrictions, verify export demonstrations, and inspect and enforce export requirements. The bill does not contain an appropriation. Any request for new resources would be subject to approval through the regular budget development process.

The bill contains an appropriate "crimes and infractions" mandated-cost disclaimer, recognizing a violation of the bill provisions would be a crime or infraction and local enforcement agencies would not be reimbursed for any additional costs resulting from this bill.

CalRecycle estimates minor costs to amend regulations to require recycler self-reporting and e-waste handling and export certifications to be cross-checked with DTSC records. CalRecycle may incur minor costs because expanded determinations would result in longer claim review times and associated increased workload. However, the Department of Finance notes CalRecycle bases the minor cost estimate on the assumption CalRecycle can rely on DTSC to provide ready access to export compliance demonstration records. It is unclear DTSC has legal authority to access and evaluate the information required to demonstrate compliance with receiving state or country laws.

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Analyst/Principal (0622) J. McGuinn	Date	Program Budget Manager Karen Finn	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

AUTHOR

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(Continued)

COMMENTS

The Department of Finance is opposed to the bill for the following reasons:

- DTSC does not have sufficient resources to verify compliance as the bill would require the department to track recyclers effectively in real time to ensure all exported e-waste is managed according to applicable laws of each state and country.
- The bill would result in significant additional workload for DTSC, but provides no funding source. The bill requirements should be contingent upon an appropriation.
- According to the United States (U.S.) Commerce Department website, exporting electronics or e-waste is under federal jurisdiction and subject to Export Administration Regulations. Other federal agencies have jurisdiction of exports depending on the commodity. Any restrictions placed upon exportation or importation should rest at the federal level in order to level the playing field for California businesses involved in e-waste. The necessary resources to confirm other state or country laws and regulations also are more appropriately budgeted at the federal level.
- Attaching the CEW payment to the requirements of the bill could cause recyclers to stop managing non-covered e-waste. The provisions in the bill would require all waste be managed according to applicable export and import laws for a recycler to receive a payment from the CEW payment system. Recyclers and collectors are less likely to collect and recycle non-covered products if the conditions placed upon them are so stringent that it is no longer advantageous to process these materials.
- Although DTSC requests and reviews demonstrations from recyclers under its universal waste regulations, it has limited ability or authority to evaluate the validity of the demonstration or prevent the exportation of the wastes. Federal law does not require these demonstrations, and, therefore, DTSC cannot rely on the U.S. Environmental Protection Agency (EPA) to provide assistance in communicating with foreign authorities to ascertain the validity of the demonstrations.

There has been controversy associated with the exportation of CEW and other e-waste to countries where e-waste is handled and disposed of unsafely. This bill is intended to ensure e-waste exported to other states and countries is processed safely. However, while well-intended, the bill would not accomplish its intended purpose for the reasons noted above.

		SO	(Fiscal Impact by Fiscal Year)							
Code/Department		LA	(Dollars in Thousands)							
Agency or Revenue		CO	PROP						Fund	
Type		RV	98	FC	2011-2012	FC	2012-2013	FC	2013-2014	Code
3500/ResRcyclRcvr		SO	No		See Fiscal Summary					3065
3960/ToxicSubCtrl		SO	No	C	\$373	C	\$743	C	\$743	3065
<u>Fund Code</u>	<u>Title</u>									
3065	Electronic Waste Recovery & Recycling									